

EXHIBIT 2

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UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

GPIF-I EQUITY CO., LTD., and)

GPIF-I FINANCE CO.,

Plaintiffs,)

vs.) No. 13 CIV 547

HDG MANSUR INVESTMENT) (CM)

SERVICES, INC., HDGM ADVISORY)

SERVICES, LLC, AND HAROLD D.)

GARRISON,)

Defendants.)

Defendants.)

The deposition of IAN NELSON, called for examination, taken pursuant to the Federal Rules of Civil Procedure of the United States District Courts pertaining to the taking of depositions, taken before Lynn A. McCauley, CSR No. 84-003268, RPR, a Certified Shorthand Reporter of the State of Illinois, at One North Franklin Street, Suite 3000, Chicago, Illinois, on December 12, 2013, at 9:13 a.m.

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2 MR. MARK: Objection, but you can answer.

3 BY THE WITNESS:

4 A. They did characterize the \$5.8 million in
5 payments as prepaid fees. They did not assert the
6 transactions to me that those payments were for.

7 BY MR. EARLEY:

8 Q. Okay.

9 A. In fact, the rationale provided to the
10 Board had nothing to do with prepaid payments.

11 Q. Are you aware if the Fund Manager ever
12 was paid fees for transactions prior to closing?

13 A. Yes.

14 Q. Okay. When?

15 A. I believe it was the last time the ING
16 debt, the ING portfolio -- are you familiar with
17 that -- was refinanced, and it was -- I may not get
18 the year right, but I think it was the end of 2009.
19 And the transaction spilled over into 2010. They had
20 paid themselves in advance.

21 There were -- we asked a lot of
22 questions as to why then they paid themselves in
23 advance. And, in fact, that transaction closed
24 before we completed the audit work.

25 Q. And you're referring to the ING

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portfolio.

A. Yes.

Q. I believe it was a refinancing of the ING portfolio?

A. Yes.

Q. You said you asked a lot of questions at that time, with respect to why the fees were paid in advance.

A. Yes.

Q. Is that correct?

Who did you ask questions to?

A. I asked questions to Mansur. I asked questions to the Board as to whether they were aware and okay with those payments.

Q. Who did you ask -- withdrawn.

Was there anyone specifically at the Fund Manager that you discussed the truth about the ING payments?

A. It would have been Brian Reeve. It would have been the CFO at the time. And the CFO changed a few times. So I think it was Robert at the time.

Q. Do you recall any of the specifics of your conversation with Mr. Reeve?

A. I mean, the specifics, no. Generally,

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2 the conversation would have been, is it appropriate
3 to pay the fee to the Fund Manager in advance of the
4 transaction closing?

5 Q. Did you ask Mr. Reeve if he thought it
6 was appropriate to pay the fee in advance of the
7 transaction closing?

8 A. Again, I don't specifically remember, but
9 that most likely was part of our conversation.

10 Q. Did you determine at any time in 2009
11 that it was appropriate to pay the fee prior to the
12 transaction closing?

13 A. I agreed that it was reasonable to do so
14 in connection with the audit, based on the
15 conversations with Mansur and the Board.

16 And their rationale was that all the
17 work associated with completing the refinancing had
18 been completed. So they, in effect, had put the
19 effort in and had a signed term sheet. And, in fact,
20 the deal did close in early January is my
21 recollection.

22 Q. In relation to the payment of the fees
23 relating to the ING refinancing prior to its closing,
24 did you review the Fund Management Agreement?

25 A. Yes.

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2 refinancing was going to take place.

3 Q. And why did you do that?

4 A. Because it's unusual for a Fund Manager
5 to receive payment on a fee in advance of a
6 transaction closing, just on its surface.

7 Q. And the language in this contract, did
8 you think it was different -- withdrawn.

9 So did you come to a conclusion that
10 the financing fee was justified, because of the
11 review you did of the e-mails and term sheets related
12 to the progress on the ING financing in 2009?

13 MR. MARK: Objection to -- to
14 characterization of justified, but you can answer.

15 BY THE WITNESS:

16 A. I mean, it was recorded as a prepaid fee,
17 if I recall correctly. And Mansur had paid
18 themselves, if I recall that as well.

19 So did I object to that recording of
20 a payment they had made?

21 Q. Yes.

22 A. No. Based on the effort put in. And,
23 essentially, it had to close in order for them to
24 earn it.

25 Q. If you look on the first page of the

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2 memo --

3 A. Uh-huh.

4 Q. -- you see it quotes a portion of Section
5 5.5 from the Fund Management Agreement. And, again,
6 it has that language in full on and prior to the time
7 of completion of the relevant financing.

8 Do you see that?

9 A. Which paragraph?

10 Q. It's Section 5.5 and financing fee.

11 A. Uh-huh. Yep.

12 Q. Is that an unusual provision for a Fund
13 Management Agreement?

14 MR. MARK: Objection.

15 MR. PLATT: Objection.

16 MR. MARK: You're not here as an expert.

17 BY MR. EARLEY:

18 Q. You can answer if you understand the
19 question.

20 A. What's that?

21 Q. You can answer.

22 MR. MARK: You can answer if you can.

23 BY THE WITNESS:

24 A. It's unusual in my experience.

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2

Q. And you also said that the Board was
comfortable with respect to the prepayments that
occurred back in 2009.

5

How did you know that the Board was
comfortable with respect to those prepayments?

6

A. They were aware of the fact that they
were done and had been presented with the information
that they were done, understood the facts, and were
okay with it.

11

Q. How was the Board aware of the
prepayments and comfortable?

13

A. Through -- again, through discussions
that we had pre-issuance of financial statements.

15

Q. And you also testified that the closing
of the transaction had already occurred by the time
that PwC was asked to review the prepayments; is that
right?

19

A. Yeah. The closing -- well, the closing
of the transaction occurred prior to us issuing the
financial statements.

22

Q. So is it fair to say that in PwC's
review, it concluded in 2010 that the prepayments
that had occurred were unusual, but were made in
circumstances where the Board was comfortable and